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Attorneys for Defendant
FRANKLIN K. MUKAI

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

FEB 17 2006

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at 3 o'clock and 50 min M
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD., a
Japanese corporation,

Plaintiff,
vs.

QK HOTEL, LLC, a Hawai'i limited
liability company, KG HOLDINGS
LLC, a Hawai'i limited liability
company, FRANKLIN K. MUKAI,

Defendants.

CIVIL NO. 04-00124 ACK/BMK
(Consolidated Case)

DEFENDANT FRANKLIN K.
MUKAI'S JOINDER IN KG
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT IN CV NO.
04-00128 ACK-BMK FILED
JANUARY 13, 2006; CERTIFICATE
OF SERVICE

HEARING

DATE: March 20, 2006
TIME: 9:30 A.M.
JUDGE: Hon. Alan C. Kay
(No trial date assigned.)

SPORTS SHINKO (USA) CO., LTD.,
a Delaware corporation,

Plaintiff,

vs.

PUKALANI GOLF CLUB, LLC, a
Hawai`i limited liability company; KG
MAUI DEVELOPMENT, LLC, a
Hawai`i limited liability company; KG
HOLDINGS, LLC, a Hawai`i limited
liability company, FRANKLIN K.
MUKAI,

Defendants.

SPORTS SHINKO (USA) CO.,
LTD., a Delaware corporation,

Plaintiff,

vs.

KIAHUNA GOLF CLUB, LLC, a
Hawai`i limited liability company;
KG KAUAI DEVELOPMENT, LLC,
a Hawai`i limited liability company;
PUKALANI GOLF CLUB, LLC, a
Hawai`i limited liability company;
KG MAUI DEVELOPMENT, LLC, a
Hawai`i limited liability company;
MILILANI GOLF CLUB, LLC, a
Hawai`i limited liability company;
QK HOTEL, LLC, a Hawai`i limited
liability company; OR HOTEL, LLC,
a Hawai`i limited liability company,

CIVIL NO. 04-00125 ACK/BMK

CIVIL NO. 04-00126 ACK/BMK

and KG HOLDINGS, LLC, a Hawai'i limited liability company, FRANKLIN K. MUKAI,

Defendants.

SPORTS SHINKO CO., LTD., a Japanese corporation,

Plaintiff,

vs.

OR HOTEL, LLC, a Hawai'i limited liability company, KG HOLDINGS, LLC, a Hawai'i limited liability company, FRANKLIN K. MUKAI,

Defendants.

SPORTS SHINKO (USA) CO., LTD., a Delaware corporation,

Plaintiff,

vs.

MILILANI GOLF CLUB, LLC, a Hawai'i limited liability company; KG HOLDINGS LLC, Hawai'i limited liability company, FRANKLIN K. MUKAI,

Defendants.

CIVIL NO. 04-00127 ACK/BMK

CIVIL NO. 04-00128 ACK/BMK

**DEFENDANT FRANKLIN K. MUKAI'S JOINDER IN KG DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT IN CV NO. 04-00128 ACK-BMK**
FILED JANUARY 13, 2006

Defendant Franklin K. Mukai ("Mr. Mukai"), by and through his undersigned counsel and pursuant to Fed.R.Civ.P. 56 and L.R. 7.4, hereby joins in KG Defendants' Motion For Summary Judgment In CV No. 04-00128 ACK-BMK filed on January 13, 2006.

Mr. Mukai submits that Plaintiff, as the entity through which control over the purported "debtor" was established,¹ cannot seek to benefit from its own conduct in seeking to hold third-parties liable for its own acts. As explained in the KG Defendants' Motion and established by the KG Defendants' Concise Statement filed in support, Toshio Kinoshita and the control group of the Plaintiff (and Sports Shinko Co., Ltd. or "SS Japan") was identical to the control group of the "debtor" Sports Shinko (Mililani) Co., Ltd.. The acts of SS Japan, of Plaintiff, and of Sports Shinko (Mililani) Co., Ltd. (and of all the other Sports Shinko entities) are alleged (*i.e.*,

¹ As Plaintiff itself alleges in its Second Amended Complaint filed July 12, 2005, "Plaintiff is the sole shareholder of Sports Shinko (Hawaii) Co, Ltd. ("SSH"), a Hawaii corporation, which owns all of the stock of the debtor, Sports Shinko (Mililani) Co., Ltd. ("DEBTOR")." See Second Amended Complaint, ¶ 1. Moreover, "Sports Shinko Co, Ltd., a Japan Corporation ... [is] the ultimate parent corporation of both Plaintiff and [Sports Shinko (Mililani) Co., Ltd.] ... , and Plaintiff in two consolidated cases...[.]" See Second Amended Complaint, ¶ 12. As alleged in consolidated case Civil No. CV 04-00127 (and as is at least implicit in the allegations made by Plaintiff in the Second Amended Complaint, ¶ 16), Toshio Kinoshita and the other so-called "Insiders" (see Second Amended Complaint, ¶ 8) controlled SS Japan. See Second Amended Complaint in Civil No. CV 04-00127, ¶ 16 (Toshio Kinoshita and the other "Insiders" formulated a "plan" to transfer the assets of Sports Shinko (Waikiki) Corporation and Sports

judicially admitted) to be the acts of the controlling shareholder, representative director, and President of the entire Sports Shinko empire, Toshio Kinoshita. Under the doctrine of in pari delicto, the acts of Plaintiff's directors, officers and shareholders—as well as those of the directors, officers and shareholder(s) of Sports Shinko (Mililani) Co., Ltd.—are attributable to Plaintiff, which is itself responsible for all of its damages claimed herein.

DATED: Honolulu, Hawaii, February 17, 2006.

WILLIAM A. BORDNER
JOHN REYES-BURKE
Attorneys for Defendant
FRANKLIN K. MUKAI

Shinko Co, Ltd. (i.e., SS Japan) outside the reach Resolution and Collection Corporation and SS Japan's other creditors).

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD., a
Japanese corporation,

Plaintiff,
vs.

QK HOTEL, LLC, a Hawai'i limited
liability company, KG HOLDINGS
LLC, a Hawai'i limited liability
company, FRANKLIN K. MUKAI,

Defendants.

CIVIL NO. 04-00124 ACK/BMK
(Consolidated Case)

CERTIFICATE OF SERVICE
(No trial date assigned.)

SPORTS SHINKO (USA) CO., LTD.,
a Delaware corporation,

Plaintiff,
vs.

PUKALANI GOLF CLUB, LLC, a
Hawai'i limited liability company; KG
MAUI DEVELOPMENT, LLC, a
Hawai'i limited liability company; KG
HOLDINGS, LLC, a Hawai'i limited
liability company, FRANKLIN K.
MUKAI,

Defendants.

CIVIL NO. 04-00125 ACK/BMK

CIVIL NO. 04-00126 ACK/BMK

SPORTS SHINKO (USA) CO.,
LTD., a Delaware corporation,

Plaintiff,

vs.

KIAHUNA GOLF CLUB, LLC, a
Hawai`i limited liability company;
KG KAUAI DEVELOPMENT, LLC,
a Hawai`i limited liability company;
PUKALANI GOLF CLUB, LLC, a
Hawai`i limited liability company;
KG MAUI DEVELOPMENT, LLC, a
Hawai`i limited liability company;
MILILANI GOLF CLUB, LLC, a
Hawai`i limited liability company;
QK HOTEL, LLC, a Hawai`i limited
liability company; OR HOTEL, LLC,
a Hawai`i limited liability company,
and KG HOLDINGS, LLC, a Hawai`i
limited liability company, FRANKLIN
K. MUKAI,

Defendants.

SPORTS SHINKO CO., LTD., a
Japanese corporation,

Plaintiff,

vs.

OR HOTEL, LLC, a Hawai`i limited
liability company, KG HOLDINGS,
LLC, a Hawai`i limited liability
company, FRANKLIN K. MUKAI,

Defendants.

CIVIL NO. 04-00127 ACK/BMK

SPORTS SHINKO (USA) CO., LTD.,
a Delaware corporation,

Plaintiff,

vs.

MILILANI GOLF CLUB, LLC, a
Hawai`i limited liability company; KG
HOLDINGS LLC, Hawai`i limited
liability company, FRANKLIN K.
MUKAI,

Defendants.

CIVIL NO. 04-00128 ACK/BMK

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was duly served on the following parties in the manner specified below, on February 17, 2006, addressed as follows:

	<u>U.S. Mail</u>	<u>Delivery</u>
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MILILANI GOLF CLUB, LLC; QK HOTEL,
LLC; OR HOTEL, LLC; and KG HOLDINGS, LLC

DATED: Honolulu, Hawaii, February 17, 2006.

WILLIAM A. BORDNER
JOHN REYES-BURKE
Attorneys for Defendant
FRANKLIN K. MUKAI